IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

CONTEMPT PETITION NO.84 OF 2007
IN
WRIT PETITION NO.2529 OF 2006
WITH
SHOW CAUSE NOTICE NO.319 OF 2007
IN
CONTEMPT PETITION NO.84 OF 2007

Sharan P. Khanna & Anr. ...Petitioners.
Vs.
UTI Infrastructure & Services Ltd. & Ors. ...Respondents.

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Mr. Chirag Modi i/b. RMG Law Associates for the Petitioners.
Mr. P.R. Modi with Mr. M.S. Doctor i/b. Vigil Juris for Respondent Nos.1, 3 to 7.
Mr. G.W. Mattoos, AGP for Respondent No.2.

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CORAM :DR.D.Y.CHANDRACHUD, J.
December 3, 2007.

P.C.:

In these proceedings, action has been sought under the Contempt of Courts Act, 1971, against the First Respondent and Respondent Nos.3 to 7. The First Respondent is a Company known by the name of UTI Infrastructure and Services Ltd., while the Third

Respondent is the Administrator of the Specified Understanding of Unit Trust of India and Respondent Nos. 4 to 7 are the officers of the First Respondent. By an order dated 17th October 2006, the following directions were issued by the Division Bench :

> "i. Respondent No.1 to apply in the proper format to Respondent No.2 within four weeks from receipt of format. Respondent No.2 should make the format available within two weeks.
>
> ii. On Respondent No.1 applying to Respondent No.2, Respondent No.2 to take decision with 12 weeks."

Now it is common ground that the Second Respondent, namely, the Maharashtra Housing and Area Development Authority, addressed a letter on 2nd November 2006 to the First Respondent, calling upon the First Respondent to submit 28 forms for 28 flats. The First Respondent by its letter dated 30th November 2006 wrote to MHADA stating that the Administrator of the Specified Undertaking of the UTI has proposed to sell 28 flats in one block to the highest bidder. Consequently, one completed form duly filled was forwarded to the Second Respondent. This letter, it has been submitted, was

forwarded to MHADA on 4th December 2006.

According to the Petitioner, there was a delay of four days in submitting to the First Respondent the forms and that in any event, 28 forms ought to have been submitted. Counsel appearing on behalf of the First Respondent submitted that by a letter dated 30th November 2006, the First Respondent had recorded that the forms were issued on 17th November 2006. This however, is contrary to what is stated in paragraph 10 of the reply of the First Respondent, namely, that the forms were collected by the First Respondent on 2nd November 2006. On that basis, under the order passed by the Division Bench, the forms ought to have been submitted within a period of four weeks to the Second Respondent, namely, by 30th November 2006. From Exhibit 6 to the affidavit in reply, it appears that the forms were received by the Second Respondent on 4th December 2006. There was a delay of four days. The question before the Court is as to whether action in the exercise of the contempt jurisdiction is warranted on account of this delay.

From the record it now appears that MHADA by its letter dated 21st September 2007 has granted an NOC for the transfer of the tenements subject to certain conditions. The underlying object of the time schedule prescribed in the order of the Division Bench was to ensure the expeditious disposal of the application for transfer by MHADA. MHADA having taken its decision and having granted an NOC, at this stage, it is not either appropriate or proper to initiate contempt proceedings against the First Respondent for the delay that has taken place, namely, of four days. Counsel appearing on behalf of the First Respondent has tendered an unconditional apology which is accepted. In so far as the submission that 28 forms ought to have submitted is concerned, it is material to note that MHADA has not rejected the application on that ground. In fact, MHADA has proceeded to grant an NOC on that basis. In the circumstances, the exercise of the contempt jurisdiction is not warranted. The Contempt Petition is accordingly dismissed. The Show Cause Notice is discharged.

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